

AN ORDINANCE BY

COUNCILMEMBER MICHAEL BOND

01-0-0842

AN ORDINANCE TO AMEND THE CITY OF ATLANTA CODE OF ORDINANCES, SECTION ____ TO ALLOW SENIOR CITIZENS TO DEFER ALL OR PART OF THE MUNICIPAL AD VALOREM TAXES IN THE CITY OF ATLANTA PURSUANT TO O.C.G.A. 48-5-71 ET SEQ.; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the Atlanta City Council has concerns regarding the rising property taxes paid by senior citizens who are long term residents of the city; and

WHEREAS, the Atlanta City Council is particularly concerned with those retirees whose income is less than \$15,000 a year but whose property values have continued to rise each year; and

WHEREAS, the Council wants to insure that these residents are not unduly burdened by rising property taxes that could threaten their ability to maintain ownership of their homes.

THE CITY COUNCIL OF THE CITY OF ATLANTA HEREBY ORDAINS AS FOLLOWS:

Section 1.

That the City of Atlanta Code of Ordinances, Section ____ be amended to state the following:

Definitions.

As used in this part, the term:

(1) "Gross household income" means all income, for all individuals residing within the homestead, from whatever source derived including, but not limited to, the following sources:

(A) Compensation for services including fees, commissions, and similar items;

(B) Gross income derived from business;

(C) Gains derived from dealings in property;

- (D) Interest;
- (E) Rents;
- (F) Royalties;
- (G) Dividends;
- (H) Alimony and separate maintenance payments;
- (I) Income from life insurance and endowment contracts;
- (J) Annuities;
- (K) Pensions;
- (L) Income from discharge of indebtedness;
- (M) Distributive share of partnership gross income;
- (N) Income from an interest in an estate or trust; and
- (O) Federal old-age, survivor, or disability benefits.

(2) "Homestead exemption" means a homestead exemption pursuant to Code Section 48-5-44 with respect to municipal ad valorem taxes for municipal purposes as provided in any such local Act.

(3) "Household" means an individual or group of individuals living together in a room or group of rooms as a housing unit.

(4) "Tax official" means the tax collector or tax commissioner with respect to the municipal governing authority or designee thereof with respect to municipal ad valorem taxes for municipal purposes pursuant to any local Act homestead exemption.

Section 2.

(a) Any individual aged 62 or older who is entitled to claim a homestead exemption may elect to defer payment of all or part of the ad valorem taxes levied on such individual's homestead by filing an annual application for tax deferral with the appropriate tax official on or before April 1 of the year for which the deferral is sought. If the homestead for which a deferral is requested has an assessed value for purposes of ad valorem taxation of \$50,000.00 or more, the deferral may apply only to the taxes on that portion of

the assessed value which is \$50,000.00 or less.

(b) It shall be the burden of each applicant for a deferral to demonstrate affirmatively his compliance with the requirements of this part.

Section 3.

(a) As an alternative to the tax deferral authorized by O.C.G.A.

Section 48-5-72, any individual aged 62 or older residing within the legal boundaries of the City of Atlanta who is entitled to claim a homestead exemption pursuant to O.C.G.A. Section 48-5-44 may elect to defer payment of all or any part of that portion of the ad valorem taxes levied on the individual's homestead which exceeds 4 percent of the individual's gross household income for the immediately preceding calendar year. An application for tax deferral under this Code section shall be filed annually with the tax collector or tax commissioner on or before April 1 of the year for which the deferral is sought. If an individual files for a tax deferral under this Code section, such individual shall not be authorized to file for a tax deferral under O.C.G.A. Section 48-5-72.

(b) The amount of the assessed value of the homestead and the amount of gross household income shall not limit the tax deferral authorized by this Code section. However, except for the provisions of Code Section 48-5-72 and paragraph (2) of Code Section 48-5-73, the provisions of this part shall apply to the tax deferral authorized by this ordinance and O.C.G.A. .

(c) It shall be the burden of each applicant for a deferral under this Code section to demonstrate affirmatively the applicant's compliance with this Code section and other provisions of this part.

Section 4.

No tax deferral in any one year shall be granted pursuant to this ordinance:

(1) If the total amount of deferred taxes and interest plus the total amount of all other unsatisfied liens on the homestead exceeds 85 percent of the fair market value of the homestead as shown on the county tax digest for the immediately preceding tax year;

(2) If the applicant's gross household income for the immediately preceding calendar year exceeds \$15,000.00;

(3) If the homestead for which the deferral is sought is subject to any lien, the terms of which are dictated by federal law, rule, or regulation prohibiting deferral of taxes; or

(4) With respect to taxes levied to retire bonded indebtedness or for special assessments.

Section 5.

(a) The application for deferral shall be made upon a form prescribed by the department and furnished by the appropriate tax official. The application form shall advise the applicant of the manner in which interest is computed. Each application form shall contain an explanation of the conditions to be met for approval and the conditions under which deferred taxes and interest become due, payable, and delinquent. Each application form shall clearly state that all deferrals pursuant to this part shall constitute a lien on the applicant's homestead.

(b) A form of oath shall be provided and shall be administered to the individual seeking the deferral. The oath may be administered by the appropriate tax official, any authorized deputy of the appropriate tax official, or any individual authorized by law to administer oaths.

(c) With respect to the tax official:

(1) The appropriate tax official shall consider each annual application for homestead tax deferral within 30 days of the date the application is filed or as soon as practicable thereafter. If the appropriate tax official finds that the applicant is entitled to the tax deferral, such official shall approve the application and file the application in the permanent records. If the appropriate tax official finds that the applicant is not entitled to the deferral, such official shall send a notice of disapproval to the applicant giving the reasons therefore within 30 days of the filing of the application either by personal delivery or by registered or certified mail or statutory overnight delivery to the mailing address given by the applicant, and such official shall make a return on the original notice of the manner in which the notice was served on the applicant and shall file the return among the permanent records of such official's office. The original notice of disapproval sent to the applicant shall advise the applicant of the right to appeal the decision of the appropriate tax official to the board of equalization and shall inform the applicant of the procedure for filing an appeal.

(2) An appeal of the decision of the appropriate tax official to the board of equalization shall be in writing on a form prescribed by the department and furnished by the appropriate tax official. The appeal shall be filed with the board within 20 days after the applicant's receipt of the notice of disapproval. The board shall review the application and evidence presented to the appropriate tax official upon which the applicant based such applicant's claim for a tax deferral and, at the election of the applicant, shall hear the applicant in person or by agent in such applicant's behalf on such applicant's right to a homestead tax deferral. The board of equalization shall reverse the decision of the appropriate tax official and shall grant a homestead tax deferral to the applicant if in its judgment the applicant is entitled thereto, or it shall affirm the decision of the appropriate tax official. Such action by the board of equalization shall be final unless the applicant, appropriate tax official, or other lienholder files an appeal with the superior court of the county in which the property lies within 30 days from the date the taxpayer receives written notification of the decision of the board of equalization.

(d) Each application shall contain a list, and the current value, of all outstanding liens on the applicant's homestead.

(e) If proof of fire and extended coverage insurance has not been furnished with a prior application, each applicant shall furnish proof of such insurance in an amount which is in excess of the sum of all outstanding liens and deferred taxes and interest with a loss payable clause to the appropriate tax official.

Section 6.

(a) The amount of taxes deferred pursuant to this part shall accrue interest until paid at three-fourths of the rate specified in Code Section 48-2-40.

(b) Interest on taxes deferred pursuant to this part in any year shall begin accruing on the date the taxes were due in that year.

Section 7.

(a) The taxes and interest deferred pursuant to this part shall constitute a prior lien and shall attach as of the date and in the same manner and shall be collected as are other liens for taxes, as provided for under this title, but the deferred taxes and interest shall only be due, payable, and delinquent as provided in this part.

(b) Liens for taxes deferred under this part, except for any lien covering the then current tax year, shall not be divested by an award for year's support authorized pursuant to Chapter 5 of Title 53 of the "Pre-1998 Probate Code," if applicable, or Chapter 3 of Title 53 of the "Revised Probate Code of 1998."

Section 8.

Each year, at the time the tax bills are mailed, the appropriate tax official shall notify each property owner to whom a homestead tax deferral has been previously granted of the accumulated sum of deferred taxes and interest outstanding.

Section 9.

(a) In the event that there is a change in use of tax-deferred property so that the owner is no longer entitled to a homestead exemption for the property, or if the owner fails to maintain the required fire and extended insurance coverage, the total amount of deferred taxes and interest for all previous years shall be due and payable either on the date on which the change in use occurs or on the date failure to maintain insurance occurs.

(b) In the event that there is a change in ownership of tax-deferred property, the total amount of deferred taxes and interest for all previous years shall be due and payable on the date the change in ownership occurs. When, however, the change in ownership is to a surviving spouse and the spouse is eligible for a homestead exemption on the property, the surviving spouse may continue the deferral of previously deferred taxes and interest pursuant to this part.

(c) During any year in which the total amount of deferred taxes, interest, and all other unsatisfied liens on a homestead exceeds 85 percent of the fair market value of the homestead, the appropriate tax official shall immediately notify the owner of the homestead that the portion of taxes and interest which exceeds 85 percent of the value of the homestead shall be due and payable within 30 days of receipt of the notice. Failure to pay the amount due shall cause the total amount of deferred taxes and interest also to become due and payable at the end of the 30 days.

(d) Each year, upon notification, each owner of property on which taxes and interest have been deferred shall submit to the appropriate tax official a list, and the current value, of all outstanding liens on the owner's homestead. Failure to respond to the notification within 30 days of its receipt shall cause the total

amount of deferred taxes and interest to become due and payable at the end of the 30 days.

(e) All deferred taxes which are made due and payable by this Code section shall be delinquent and subject to interest in accordance with Code Section 48-5-75 at the end of 120 days following the date the deferred taxes become due and payable.

Section 10.

a) All or part of the deferred taxes and accrued interest may be paid at any time to the appropriate tax official by:

(1) The owner of the property or the spouse of the owner; or

(2) The next of kin of the owner, heir of the owner, child of the owner, or any person having or claiming a legal or equitable interest in the property, provided that no objection is made by the owner within 30 days after the appropriate tax official notifies the owner of the fact that such payment has been tendered. Any payment made under this paragraph shall be deposited in a special escrow account for the 30 day period; and the appropriate tax official shall not make distribution of the amount under O.C.G.A. Section 48-6-74 while the funds are held in escrow.

(b) Any partial payment made pursuant to this Code section shall be applied first to accrued interest. By resolution of the appropriate county or municipal governing authority, a minimum amount of partial payment which may be accepted in the county or municipality pursuant to this part may be established. The required minimum payment shall not exceed \$25.00.

Section 11.

When any deferred taxes or interest is collected, the appropriate tax official shall maintain a record of the payment, which record shall contain a description of the property and the amount of taxes or interest collected for the property. The appropriate tax official shall distribute payments received to the local tax jurisdictions to whom the taxes and interest are owed.

Section 12.

If any holder of a deed to secure debt or any mortgagee elects to pay the taxes of an applicant who qualifies for and receives a tax

deferral, such election shall not give the holder of the deed or the mortgagee the right to foreclose.

Section 13.

Nothing in this part shall be construed to prevent the collection of personal property taxes which become a lien against tax-deferred property.

Section 14.

(a) The following penalties shall be imposed on any person who willfully files information required under Code Sections 48-5-72, 48-5-72.1, and 48-5-78 which is incorrect:

(1) The person shall pay the total amount of taxes and interest deferred, which amount shall immediately become due;

(2) The person shall be disqualified from filing a homestead tax deferral application for the next three years; and

(3) The person shall pay a penalty of 25 percent of the total amount of taxes and interest deferred.

(b) Any person against whom the penalties prescribed in this Code section have been imposed may appeal the penalties imposed to the county board of equalization within 30 days after the penalties are imposed.

Section 15.

If any provision, clause, sentence or paragraph of this Code, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this Article which can be given effect without the invalid provisions or application and, to this end, the invalid provisions are hereby declared to be severable.

RCS# 3025
7/16/01
6:55 PM

Atlanta City Council

Regular Session

01-O-0842 To allow seniors to defer all or part
 of Municipal ad valorem taxes
 REFER FIN/EXEC

YEAS: 11
NAYS: 2
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

Y McCarty	N Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	NV Martin	Y Emmons
N Bond	B Morris	Y Maddox	Y Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

01-O-0842

**LEGISLATION
BROUGHT FORWARD
FROM
H E L D
STATUS
IN COMMITTEE
ONTO
THE FLOOR
OF
COUNCIL**

DATE: July 11th, 2001

Legislation I.D.#: 01-0-0842

Committee: Finance / Executive

Requested By: Michael Bond

Action Taken:

01-O -0842

AN ORDINANCE BY

Do Not Write Above This Line

COUNCIL MEMBER MICHAEL BOND

"*File*" *Mobile phones*
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SECTION TO ALLOW SENIOR
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IN THE CITY OF ATLANTA PURSUANT
TO O.C.G.A. 48-5-71 ET SEQ.; TO REPEAL
CONFLICTING ORDINANCES; AND FOR
OTHER PURPOSES.

FILED BY
CITY COUNCIL

SEP 04 2001

who
objection

- ☐ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☐ 1st ADOPT 2nd READ & REFER
☒ PERSONAL PAPER REFER

Date Referred 5/21/01

Referred To: Finance/Executive

Date Referred 7/16/01

Referred To: Finance/Executive

Date Referred

Referred To:

First Reading

Committee _____
Date _____
Chair _____
Referred to _____

Committee FIN/Exec
Date 8-15-01
Chair [Signature]
Action: FILE
Fav, Adv, Hold (see rev. side)
Other: [Signature]
Members [Signature]
Refer To _____

Committee _____
Date _____
Chair _____
Action: _____
Fav, Adv, Hold (see rev. side)
Other: _____
Members _____
Refer To _____

FINAL COUNCIL ACTION

- ☐ 2nd ☐ 1st & 2nd ☐ 3rd
Readings
☐ Consent ☐ V Vote ☐ RC Vote

CERTIFIED

G
SEP 4 2001

ATLANTA CITY COUNCIL PRESIDENT

[Signature]

CERTIFIED
SEP 04 2001

[Signature]
MUNICIPAL CLERK

MAYOR'S ACTION